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To: john.pistole <john.pistole@dhs.gov>
Sent: Mon, Dec 23, 2013 9:35 am
Subject: Discovery 9/11 Litigation

Dear Mr. Pistole,

My name is Brian Sullivan and I am a retired FAA Special Agent who identified security shortcomings at Logan Airport in the lead up to 9/11. Since that time I helped with development of the aviation security documentary *Please Remove Your Shoes* and supported the plaintiffs in the 9/11 wrongful death and property litigation resulting from the September 11, 2001 attacks.

When the 9/11 Commission Report was issued in 2004, they based their assumptions and conclusions upon information available to them at that time. Since then, years of litigation (wrongful death and property damage) have resulted in a tremendous amount of new information about aviation insecurity in the lead up to the 9/11 attacks. That information, uncovered as a result of legal discovery, includes over 130 exhibits from the Mark Bavis case, and is available as part of the open court record. It is quite possible, even likely, that this discovery information might very well have altered the assumptions and conclusions reached by the 9/11 Commissioners had it been available at the time they formulated their report.

The problem now is that the 9/11 Commission is no longer funded and, in fact, has been disbanded, so there is no mechanism to update their report. Although district court records ultimately will end up at the National Archive, there is no methodology to link the 9/11 discovery records with the 9/11 Commission records.

The Motley Rice law firm, which represented a majority of the wrongful death plaintiffs, spoke about the creation of a 9/11 public archive which would incorporate discovery information but, as yet, no one has synthesized the open court records to create such a public archive. As a result, the TSA, American people and travelling public still may have an incomplete picture of what happened on 9/11.

No one, to my knowledge, has ever examined these discovery records to discern where they might differ from what was reported by the 9/11 Commissioners. From just a simple review of the court transcripts I can see some areas of concern. As an example, the 9/11 Commission Report stated that despite security problems at the airports, no **evidence** suggests that such issues entered into the terrorists targeting. The discovery record of terrorist surveillance at Logan Airport in the Spring of 2001 certainly helps refute that assumption.

What I would like to see going forward is for the TSA to review this discovery information to see where it differs from the 9/11 Commission report. Why is that important? It is important because of the warnings which were given about security deficiencies and the terror threat prior to the 9/11 attack. If the FAA, port authority or airlines had heeded those warnings and taken steps to enhance security, it may very well have served to discourage, deter or detect the attacks.

With the terror threat having recently been reported as being higher than it was prior to 9/11 and the Airline Pilots Association reporting terrorist probes and dry runs, the warnings and threats are there again. This time, reinforced by what legal discovery has uncovered about the lead up to 9/11, perhaps we can avoid the failure of imagination which lead to so much death and destruction on September 11, 2001.

See: http://www.washingtonpost.com/politics/feinstein-rogers-terror-threat-against-us-has-grown-as-al-qaedas-dynamic-shifts/2013/12/01/cd6a32cc-5ac5-11e3-a49b-90a0e156254b_story.html

<http://www.nydailynews.com/news/national/terrorists-conducting-practice-sessions-airline-attack-pilots-union-article-1.1482770>

Examples of the **evidence** produced in discovery (see the Mark Bavis case) that the terrorists did in fact conduct surveillance and consider security, at least at Logan Airport, follow:

In May 2001, air carrier employees and checkpoint screeners became aware that two Middle Eastern men outside the main security checkpoint were acting suspiciously. Stephen Wallace, an American Airlines employee, noticed on May 11, 2001 that he was being observed by two men with pilot's bags. At the time, Wallace was setting up an information kiosk identifying dangerous items not permitted on planes. Wallace noticed that one of the men was videotaping and taking pictures of the checkpoint while the other was on a cell phone. Wallace was so suspicious of the men's behavior that he asked if they had any of the dangerous goods in their bags. The men spoke only Arabic and moved away from Wallace. Wallace then followed the men as they left toward the American Eagle checkpoint where they proceeded through the screening. Wallace left the suspicious men at the checkpoint and assumed they flew to Washington, D. C. Wallace would later identify American Air carrier Flight 11 Hijacker Mohammed Atta as one of the two men he saw that day. And according to Wallace's deposition, he informed two Massport employees including Massport law enforcement and a checkpoint screener about the two suspicious men.

Similarly, Theresa Spagnuolo, who was a checkpoint screener for Huntleigh on the morning of September 11th and formerly a pre-boarding checker for Globe Aviation Services ("Globe"), told the FBI that she observed a Middle Eastern man some "four month ago" (corresponding to May 2001) videotaping the main security checkpoint. Finding the behavior highly suspicious she told her supervisor. Spagnuolo later identified the Middle Eastern man she saw as American Air carrier Flight 11 hijacker Mohammed Atta.

Likewise, sometime before September 11, 2001, James Miller, a former Globe duty manager at Logan Airport, observed one or more Muslim-appearing persons photographing the "whole checkpoint setup." He reported their activities.

After 9/11 it was reported that Janice Shineman, another Logan witness, saw Atta at the American gate on September 9, 2001, again involved in "suspicious activity." Later, USA Today reported that Waleed al-Shehri, one of the terrorist hijackers, sent money by Western Union from Logan Airport to alleged terrorist financier Mustafa al-Hawsawi on September 9, 2001, coincidently the same day that Janice Shineman reported seeing Mohammed Atta at Logan.

I would be happy to provide you with contact information for the attorneys who represented the plaintiffs in the 9/11 wrongful death and property damage litigation. I'm sure they'd be able to assist you in accessing pertinent discovery information. Although the TSA has reviewed some of this from the SSI (Sensitive Security Information) perspective, there's no indication that a comparison to the 9/11 Commission Report has ever been undertaken.

I look forward to hearing from you in this regard, as I'm quite sure that this proposal would find a lot of support from the 9/11 victims' families and advocates for enhanced aviation security.

Thank you,

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